

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION


RONALD R. COKER, JR.,	§	
	§	
Plaintiff,	§	
	§	Civil Action No. 3:05-CV-0005-M
v.	§	
	§	
DALLAS COUNTY JAIL, et al.,	§	
	§	
Defendants.	§	
_____	§	

**ORDER ACCEPTING IN PART AND REJECTING IN PART
FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing the objections to the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and conducting a *de novo* review of those parts of the Findings and Conclusions to which objections have been made, I am of the opinion that the Findings and Conclusions of the Magistrate Judge are correct in all but one respect. The Court concludes that the Plaintiff's claim that University of Texas Medical Branch ("UTMB") deprived him of the use of a handicapped accessible shower chair does not relate back under Fed. R. Civ. P. 15(c) because that claim was not stated in his original Complaint. Rather, Plaintiff stated that the chair in the shower he used was filthy and unsanitary. The failure to provide a handicapped accessible shower chair under the ADA and the Rehabilitation Act is a wholly different claim than that of unsanitary conditions. Because the ADA/Rehabilitation Act claims of failure to provide a handicapped accessible shower chair are new and different, they do not relate back to the date of filing of the original Complaint and are barred by limitations.

For the reason stated herein and for the other reasons stated in the Findings, Conclusions, and Recommendation, the Court GRANTS in part and DENIES in part Defendant UTMB's motion to dismiss (doc #182). The Court hereby dismisses Plaintiff's claims asserted against UTMB under 42 U.S.C. § 1983 on grounds of sovereign immunity, and dismisses his claims that UTMB failed to provide a handicapped accessible vehicle and a handicapped accessible shower chair in violation of the ADA and Rehabilitation Act, as untimely. The Court otherwise denies the motion to dismiss.

SO ORDERED this 19th day of March, 2008.



BARBARA M.G. LYNN
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS